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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,215	10/18/2001	Helmut Kanzler	4501CON	8013

7590 07/24/2003
Samuels, Gauthier & Stevens LLP
Suite 3300
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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 07/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,215

Applicant(s)

KANZLER ET AL.

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 5/14/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9,10,18,19,22-26,28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3,5-7,9,10,18,19,22-26 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Status of Application

1. Applicant's amendment, filed 5/14/03, has been entered in the application. Claims 1-3, 5-7, 9, 10, 18, 19, 22-26, 28 and 29 are pending; claim 29 having been withdrawn from consideration. Applicant's amendment to the specification at page 15 could not be entered as entry at the specified line would have resulted in the text being inserted in the middle of an existing sentence.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, all components of the vehicle being composed of interchangeable modules (claim 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to under 37 CFR 1.71 because it fails to provide a complete written description of the invention. On page 9, the specification refers to the adjusting of a gear ratio of a snow plow shaft by a potentiometer, however the specification fails to provide any further details as to the structure which would allow such an adjustment to be made. On pages 8-10, the specification refers to an optimization of consumption, however, the specification fails to set forth how this optimization is achieved. On page 15, the specification refers to tiltable cab portions and platform portions, but beyond illustrating, schematically only, a single actuator, the specification fails to describe how such tilting cab and platform portions may be constructed and used.

Claim Rejections - 35 USC § 112

4. Claims 1-3, 5-7, 9, 10, 18, 19, 22-26 and 28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1, at lines 6-8 refers to a supply of alternating current directly supplied from a driving motor to either an electrohydraulic or electric drive, however the specification as filed fails to teach such a limitation. See page 5, lines 1-5, page 7, page 10 and page 12. Claims 19 and 25 refer to consumption-optimum speed for the engine, however the specification fails to set forth how such an optimization may be achieved, as noted in the specification objections above.

5. Claims 1-3, 5-7, 9, 10, 18, 19, 22-26 and 28 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. In claim 1, lines 6-7, "the gained energy" lacks a clear antecedent basis; in claim 9, lines 1-3, the recitation contradicts the recitation in claim 1, lines 6-8.

Claims not rejected over the Prior Art

6. Claims 1-3, 5-7, 9, 10, 18, 19, 22-26 and 28 are not rejected as being anticipated by or unpatentable over the prior art of record, however they are not in condition for allowance at this time in view of the claim rejections under 35 USC 112, first and second paragraph.

Response to Comments

7. Applicant's comments have been carefully considered. The examiner agrees that the previously applied references fail to teach the limitations of the claims as they have been amended.

As regards applicant's arguments directed to those features which are not deemed to be clearly described in the specification, the examiner disagrees, in that the specification sets forth no examples of how such features may be realized, and applicant has not seasonably presented any evidence to support these arguments. Note

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that the arguments of counsel cannot take the place of evidence in the record. In re Schulze, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); In re Geisler, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

On page 5 of the response, applicant has argued that "[i]t is important to note that the Applicants' invention has an electrohydraulic or electric drive which is supplied directly with alternating current from the generator", continuing on to describe the differences of Logan from this particular feature. There is no support for this statement cited in the specification as originally filed. Applicant is referred to the specification, particularly at page 5, which refers to an energy buffer, page 7, which refers to the use of recovered energy, but not a direct connection, page 10, which refers to regeneration, but not to the particulars of energy distribution, and to page 12, which refers to the feeding back of regenerated energy into the 'high-performance' mechanism. It is not at all clear how the limitations applicant is emphasizing as the patentable distinction over the prior art find support in the specification as filed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

703-305-3597 or 305-7687 (for formal communications intended for entry;
informal or draft communications may be faxed to the same number but
should be clearly labeled "UNOFFICIAL" or "DRAFT").

The Office has also established electronic fax servers for T.C. 3600:

703-872-9326 (Official communications)
703-872 9327 (Official After-Final communications)
703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618



7/23/03